

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF MISSISSIPPI
GREENVILLE DIVISION**

UNITED STATES OF AMERICA,

VS.

CIVIL ACTION NO. 2:06CV32-P-B

**ONE 2004 JOHN DEERE TRAIL BUCK
EX ATV 4X4, PRODUCT IDENTIFICATION
NUMBER MOGKBC5011054,**

DEFENDANT.

ORDER

This matter comes before the court upon Hezekiah Patton's Motion for Leave of Court to Depose Witness in Prison [9-1]. After due consideration of the motion and the response filed thereto, the court finds as follows, to-wit:

The motion for leave of court to depose Daryl Christian in prison should be denied. The Government's request in their response to stay this case pending the resolution of the related criminal action pursuant to 18 U.S.C. § 981(g) should be granted. Section 981(g)(1) provides: "Upon the motion of the United States, the court *shall* stay the civil forfeiture proceeding if the court determines that civil discovery will adversely affect the ability of the Government to conduct a related criminal investigation or the prosecution of a related criminal case." (emphasis added). Since there is a related criminal action pending against Hezekiah Patton, the ostensible owner of the subject property, and since Daryl Christian has already plead guilty in the same pending criminal action, the court finds that allowing civil discovery at this point would adversely affect the ability of the Government to prosecute their case pending against Patton.

IT IS THEREFORE ORDERED AND ADJUDGED that:

(1) Claimant/Defendant's Motion for Leave of Court to Depose Witness in Prison [9-1] is

DENIED:

- (2) For the reasons discussed above, this case is **STAYED** pending the resolution of the underlying criminal action; and
- (3) The parties are to contact the court within 10 days after resolution of the criminal action to request a lift of the stay.

SO ORDERED this the 2nd day of August, A.D., 2006.

/s/ W. Allen Pepper, Jr.

W. ALLEN PEPPER, JR.

UNITED STATES DISTRICT JUDGE